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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,269	02/28/2006	Alexander Zernickel	40124/05301	1335
30636 7590 12/26/2007 FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			EXAMINER JOHNSON, MATTHEW A	
			ART UNIT 3682	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/544,269	Applicant(s) ZERNICKEL ET AL.	
	Examiner Matthew Johnson	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) 4 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/28/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the cross hatching for the guide element and the lever adapter should correspond to the symbol for plastic as required by 37 CFR 1.84(n) (see MPEP 608.02). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means", "comprising", "wherein" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: the phrase "adjustable in length and/or inclination" is confusing. The examiner suggests the following language, -- adjustable in length or inclination --. Appropriate correction is required.

4. Claim 7 is objected to because of the following informalities: the phrase "the first and second clamping plate element" should read -- the first and second clamping plate elements --. Appropriate correction is required.

5. Claim 8 is objected to because of the following informalities: the phrase "one clamping ramp" should read -- the clamping ramp -- so as to agree with the limitation recited in claim 1. Appropriate correction is required.

6. Claim 9 is objected to because of the following informalities: the phrase "fixed in axial direction" in line 8, should read -- fixed in an axial direction --. The phrase "adjustable in length and/or position" in line 12 is confusing. The examiner suggests the following language: -- adjustable in length or inclination --. Additionally, the phrase "are/is adjustable" in the last two lines of the claim is confusing. The examiner suggests the following language: -- is adjustable --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3, 5 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Schick et al. (USP-7,010,996).

Re clm 1: Schick discloses a clamping device comprising:

- A first clamping plate element (34) and a second clamping plate element (32) with a rolling body (44) positioned in between
- Wherein said rolling body (44) is accommodated in a hole (Fig. 1) in a guide element (42) which is arranged between the first clamping plate element (34) and the second clamping plate element (32)
- Wherein the second clamping plate element (32) is rotatable (C3 L9-12) between a released position (37) and a clamped position (39) in relation to the first clamping plate element (34) (C1 L16-19)
- Wherein the second clamping plate element (32) comprises a clamping ramp (36, Figs. 3 & 4) for the rolling body (44)
- Wherein a surface (38) of the first clamping plate element (34) forms a plane (Fig. 4), and the rolling body (44) on the first clamping plate element (34) rolls from the released position (37) to the clamped position (39) on the plane of the surface (C2 L53-65)
- Wherein the clamping ramp (36) comprises a contour (37, 38, 39, Fig. 4) on which the rolling body rolls (44) when the second clamping plate element (32) is rotated between the released position (37) and the clamped position (39) in relation to the first clamping plate element (34) (C3 L47-52)

- Wherein the contour changes from the released position (37) to the clamped position (39) such that when the second clamping plate element is rotated between the released position (37) and the clamped position (39) in relation to the first clamping plate element (34) a space between the first (34) and the second clamping plate element (32) is changed (C2 L62-C3 L1)

Re clm 2: Schick discloses the guide element (42) comprises a control contour (outer rim surface of 42).

Re clm 3: Schick discloses on the second clamping plate element (32) a lever adapter (41) with a T-shaped cross section is provided (43, 35, Fig. 5). Regarding the limitation "for sliding on a correspondingly formed section of an activation lever is provided, wherein the correspondingly formed section of the activation lever and the T-shaped cross section are designed such that if an axial force is applied that exceeds a threshold value, the activation lever is decoupled from the T-shaped cross section of the lever adapter", the examiner notes while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. The reference discloses all claimed structural limitations and therefore anticipates the claim. (See MPEP 2114)

Re clm 5: Schick discloses the lever adapter (41) is connected to the second clamping plate element (32), having positive fit (Fig. 1), and the first clamping plate element (34) is connected to the guide element (42) having positive fit (Fig. 5).

Re clm 9: Schick discloses:

- A tie bolt (12), arranged at a right angle (Fig. 6) relative to the steering column (100)
- Wherein the steering column (100) is guided between a first supporting arm (102) and a second supporting arm (102) of a fixed bracket (Fig. 6)
- Wherein the tie bolt (12) extends between the first and the second supporting arms (102), with the first end (15) of the tie bolt (12) being held by the first supporting arm (Fig. 6)
- Wherein on the second end (near 14) of the tie bolt (12), the second clamping plate element (32) is affixed such that it is fixed in the axial direction (via 24 and 41, C3 L9-14) of the tie bolt
- Wherein the first clamping plate element (34) is arranged between the second clamping plate element (32) and the second supporting arm (102)

Regarding the limitation, "such that the steering column is firmly held between the first and second supporting arms if the first and the second clamping plate elements are rotated such that they are in the clamped position, and the length and/or position of the steering column between the first supporting arm and the second supporting arm are/is adjustable if the first and the second clamping plate elements are rotated such that they are in the released position", the examiner notes while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than

function. The reference discloses all claimed structural limitations and therefore anticipates the claim. (See MPEP 2114)

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schick (USP-7,010,996) et al. in view of Brauer et al. (USPGPub-2002/0083784) further in view of Stuedemann et al. (USP-5,841,938).

Re clm 7: Schick discloses all of the claim limitations as described above.

Schick does not explicitly disclose the first and second clamping plate elements are made from metal while the guide element and the lever adaptor are made from plastic.

Brauer teaches a first and second clamping plate element (22, 24) made from metal for the purpose of withstanding the required loads (paragraph [0018]).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Schick to have first and second clamping plate elements made from metal, as taught by Brauer, for the purpose of (paragraph [0018]).

Stuedemann teaches a lever adaptor (104) and a guide element (58) made from plastic (C4 L7-9 & C3 L51) for the purpose of reducing weight and friction.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Schick to have a lever adapter and a guide element made from plastic, as taught by Stuedemann, for the purpose of reducing weight and friction.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schick (USP-7,010,996) et al. in view of Brauer et al. (USPGPub-2002/0083784).

Re clm 8: Schick discloses all of the claim limitations as described above.

Schick does not disclose the rolling body is a ball and one clamping ramp is a spherical cap with a ramp geometry which causes a change in distance between the first and second clamping plate element when the first and second clamping plate element are rotated between the clamped position and the released position.

Brauer teaches a rolling body that is a ball (30) and one clamping ramp (12, 26 or 28) that is a spherical cap with a ramp geometry (Figs. 1-3) for the purpose of reducing friction and operator effort while effecting a significantly greater clamping force (paragraph [0003]). Regarding the limitation, "which causes a change in distance between the first and second clamping plate element when the first and second clamping plate element are rotated between the clamped position and the released position", the examiner notes while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from

the prior art in terms of structure rather than function. The reference discloses all claimed structural limitations and therefore anticipates the claim. (See MPEP 2114)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Schick such that the rolling body is a ball and one clamping ramp is a spherical cap with a ramp geometry which causes a change in distance between the first and second clamping plate element when the first and second clamping plate element are rotated between the clamped position and the released position, as taught by Brauer, for the purpose of reducing friction and operator effort while effecting a significantly greater clamping force (paragraph [0003]).

#### ***Allowable Subject Matter***

10. Claims 4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Johnson whose telephone number is 571-272-7944. The examiner can normally be reached on Monday - Friday 8:30a.m. - 5:00p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJ  
MJ 12/19/2007



RICHARD RIDLEY  
SUPERVISORY PATENT EXAMINER